

## REMARKS

Claims 1-3, 6-15, 17-19, 323-26, 28-37, 39-41, 61-63, 66-75 and 77-79 are pending in the application. Upon entry of the present amendments, claims 7, 14-15, 19, 29, 36-37, 41, 67, 74-75, and 79 will be cancelled without prejudice. Claims 1-3, 6-15, 17-19, 323-26, 28-37, 39-41, 61-63, 66-75 and 77-79 stand rejected under 35 USC § 103(a) as being unpatentable over Kramer.

Applicants have amended the independent claims to further define the claim subject matter, so as to advance prosecution of the application towards allowance. Applicants request further review and examination in view of the claim amendments.

### *Claim Rejections - 35 USC § 103*

Claims 1-3, 6-15, 17-19, 23-26, 28-37, 39-41, 61-63, 66-75 and 77-79 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer et al., "Configuring Object-based Distributed Programs in REX", Software Engineering Journal, 3- 1992, pages 139-149.

Applicants have amended claim 1 to recite, in part

implementing in a class a first explicit interface member by explicitly specifying the relationship between the class and the first explicit interface member, the first explicit interface member mechanism being excluded from a public interface of the class;

implementing in the class a second explicit interface member, *the second explicit interface member having the same signature as the first explicit interface member;*

(emphasis added). Support for these amendments is found in the instant Specification in at least pg. 15, lines 3-8. Applicants submit that Kramer fails to render obvious the invention described in independent claim 1, or dependent claims 2-3, 6-15, or 17-19 for at least the reason that Kramer fails to disclose a second explicit interface member having the same signature as a first explicit interface member, as is claimed.

Applicants have amended independent claims 23 and 61 to make similar recitations as independent claim 1. For reasons similar to as stated with respect to claim 1, applicants submit

that Kramer fails to render obvious the invention described in independent claims 23 or 61, or respective dependent claims 24-26, 28-37, or 39-41, or 62-63, 66-75 or 77-79.

In rejecting claims 6-10, 18-19, 28-32, 40-41, 66-70, and 78-79 under 35 USC § 103(a), the Office has stated that claim language of each of those claims is a relative term. For example, the Office states the following with regard to claim 6: “The bold phrase (‘enables’) is a relative term that has the claim remain reciting ‘explicit interface member mechanism.’” Official Action, at 7. Applicants submit that this reading out of claim language for being a relative term in a 35 USC § 103(a) rejection is improper under the MPEP.

MPEP 706.03(d) states that a rejection based on a term for being a relative term is to be made under 35 USC § 112, second paragraph.<sup>1</sup> As Applicants read the MPEP, it does not set forth grounds under which a 35 USC § 103 rejection may be made for the use of a relative term. If the Office disagrees, applicants would appreciate a citation to the germane portion of the MPEP, so that they might better understand the rejection.

Even if the Office rejects these claims for being indefinite under 35 USC § 112, second paragraph, the MPEP still requires the Office to consider this indefinite language when making a rejection under 35 USC § 103.<sup>2</sup> The Office has not considered the language it considers to be a relative term under 35 USC § 103, because the Office has read it out of the claims. For example, this is the rejection of claim 6:

As per claim 6: Kramer further teaches *A method according to claim 1, wherein the explicit interface member mechanism **enables** the class to implement an internal interface not accessible to a consumer of said class.* The bold phase is relative term that has the claim remain reciting “*explicit interface member mechanism*”. See sec. 2.2, start at p. 141, and refer to the type of ODD specified in the reference title.

<sup>1</sup> “¶ 7.34.03 Relative Term - Term of Degree Rendering Claim Indefinite. The term “[1]” in claim [2] is a relative term which renders the claim indefinite. The term “[1]” is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. [3].”

<sup>2</sup> MPEP 2143.03: “All words in a claim must be considered in judging the patentability of that claim against the prior art...A claim limitation which is considered indefinite cannot be disregarded.”

Official Action, at 7. It is improper for the Office to state that the claim recites a relative term, which causes the remaining claim to recite “explicit interface member mechanism,” and then reject that recitation as if it were the entire claim. Applicants request that the Office reconsider its “relative term” rejections 6-10, 18-19, 28-32, 40-41, 66-70, and 78-79 under 35 USC § 103(a) based on the examination guidelines set forth by the MPEP.

Furthermore, the Office makes specific rejections of claims 1-3, 6-15, and 17-19, and then rejects the other claims for the same rationale, but not all of those other claims recite the language that the Office states is a relative term. For instance, the Office states that claim 6’s “enables” is a relative term, but similar claim 66 does not recite “enables.”

66. The method of claim 61, wherein said class implements an internal interface that is not accessible to a consumer of said software component.

While claims that make similar recitations frequently can be addressed using the same rationale, applicants request that the Office be mindful of the claims’ differences in addition to their similarities.

## CONCLUSION

In view of these claim amendments and remarks, applicants request that the Office reconsider the application.

The Commissioner is hereby authorized to charge any fee deficiency, charge any additional fees, or credit any overpayment of fees, associated with this application in connection with this filing, or any future filing, submitted to the U.S. Patent and Trademark Office during the pendency of this application, to Deposit Account No. 23-3050.

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